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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,282	07/09/2004	John Calhoun McMichael	AM100780	3831
25291	7590	11/07/2006	EXAMINER	
WYETH PATENT LAW GROUP 5 GIRALDA FARMS MADISON, NJ 07940			DUFFY, PATRICIA ANN	
			ART UNIT	PAPER NUMBER
			1645	

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/501,282

Applicant(s)

MCMICHAEL ET AL.

Examiner

Patricia A: Duffy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-107 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-107 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Groups 1 to 3325, claim(s) 1-31, 57-65, 82-87, 92, 101-104 and 107 (in part) drawn to separate polynucleotides and compositions as represented by the one of the odd numbered sequences from SEQ ID NO: 1 to SEQ ID NO:6649.

Groups 3326 to 6650, claim(s) 32-56, 74-81, 88-91 and 93 (in part), drawn to separate polypeptides and compositions as encoded by separate polynucleotides as represented by the one of the odd numbered sequences from SEQ ID NO: 1 to SEQ ID NO:6649 or by one of the even numbered sequences from SEQ ID NO:2 to SEQ ID NO:6650.

Groups 6651 to 9975, claim(s) 66-73, 105 and 106 (in Part), drawn to separate antibodies that bind polypeptides as encoded by separate polynucleotides as represented by the one of the odd numbered sequences from SEQ ID NO: 1 to SEQ ID NO:6649 or by one of the even numbered sequences from SEQ ID NO:2 to SEQ ID NO:6650.

Groups 9975 to 13300, claim(s) 94-96 (in part), drawn to separate methods of immunizing using materially separate polypeptides and compositions as encoded by separate polynucleotides as represented by the one of the odd numbered sequences from SEQ ID NO: 1 to SEQ ID NO:6649 or by one of the even numbered sequences from SEQ ID NO:2 to SEQ ID NO:6650.

Groups 13300 to 16625, claim 97 (in part), drawn to methods of detection by using separate probes from separate polynucleotides and compositions as represented by the one of the odd numbered sequences from SEQ ID NO: 1 to SEQ ID NO:6649.

Groups 16626 to 19950, claim 98 (in part), drawn to methods of detection by using separate primer pairs from separate polynucleotides and compositions as represented by the one of the odd numbered sequences from SEQ ID NO: 1 to SEQ ID NO:6649.

Groups 19951 to 23275, claim 99 (in part), drawn to methods of detection using separate antibodies that bind materially separate polypeptides as encoded by separate polynucleotides as represented by the one of the odd numbered sequences from SEQ ID NO: 1 to SEQ ID NO:6649 or by one of the even numbered sequences from SEQ ID NO:2 to SEQ ID NO:6650.

Groups 23276 to 26600, claim 100 (in part), drawn to methods of detection using separate polypeptides as encoded by separate polynucleotides as represented by the one of the odd numbered sequences from SEQ ID NO: 1 to SEQ ID NO:6649 or by one of the even numbered sequences from SEQ ID NO:2 to SEQ ID NO:6650.

The inventions listed as Groups 1 to 26600 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: each of groups 1-26,600 are drawn to polynucleotides, polypeptides, antibodies, and methods of use thereof, that have different chemical structures as represented by their separate sequences identifiers as SEQ ID NOS: 1-6650. Each sequence identifier possesses a

different chemical structure and as such, each Group drawn to different sequence identifiers lack a corresponding technical feature with the other groups within the meaning of PCT Rule 13.2. Further, the technical feature of Group 1, with respect to a fragment of a polynucleotide is not special in that it does not define a feature that is novel over the art because the pNTPs and amino acids are sold by various chemical companies such as SIGMA and STRATAGENE as set forth in the lack of unity and in the International Application Examination. Therefore, each Group defines a separate technical feature.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia A. Duffy whose telephone number is 571-272-0855. The examiner can normally be reached on M-Th 7:30 pm - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campbell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patricia A. Duffy
Patricia A. Duffy

Primary Examiner

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